IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 14188 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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THE STATE OF GUJARAT
Versus
UMESHKUMAR LALMAN SHARMA AND OTHERS

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Appearance :
Mr AY Kogje, APP for the applicant.
MR KB Anandjiwala for the respondents.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 09/05/2007

ORAL JUDGMENT

1. This application has been filed by the State seeking cancellation of regular bail granted by learned Additional Sessions Judge, Gandhidham by an order dated 6th September, 2006 passed in Criminal Misc.

Application No.282/2006.

2. The respondents herein, who are the original accused in a criminal case arising out of complaint bearing C.R.No.31/2006 in which offences of dowry death were charged against the accused.

3. The accused, who comprise of the husband and in-laws of the deceased Anita, therefore, moved an anticipatory bail application being Criminal Misc. Application No.227/2006 before learned Additional Sessions Judge, Gandhidham. The learned Judge granted anticipatory bail by an order dated 21st August, 2006 on the condition that within ten days of their arrest they will have to move appropriate Court for regular bail. Accordingly, after being arrested and released on bail, the present respondents moved learned Additional Sessions Judge for regular bail by filing Criminal Misc. Application No.282/2006. Said application came to be allowed by the impugned order.

4. While granting anticipatory bail, the learned Judge took into consideration several aspects, including possibility that the deceased herself was suffering from certain mental disorder. Learned Judge also observed that the complaint was filed nearly three months after the incident.

5. In the impugned order granting regular bail to the accused, the learned Judge observed that after granting order of anticipatory bail during which exercise the Court had perused the police papers and discussed the pros and cons of the case, there has been no material change in circumstances. On this ground, the learned Judge was pleased to grant regular bail to the respondents.

6. Having heard learned APP, Shri A.Y.Kogje and learned advocate Shri Anandjiwala for the respondents, I find that this is not a case where bail already granted by the Sessions Court is required to be cancelled.

7. It may be noted that the complaint of dowry death came to be lodged by the father of the deceased nearly three months after the incident. Immediately, after the incident, the police had recorded statements of concerned persons.

8. When the Sessions Court has granted bail taking into consideration all aspects of the matter, it would not be appropriate for this Court to cancel the same without there being substantial grounds to do so. Indisputably, there are no allegations of misuse of liberty by the accused.

9. Since I do not find that the order of bail passed by the Sessions Court is perverse or without taking into consideration relevant materials on record, nor do I find that the accused have misused the liberty while on bail, I do not find that this is a fit case for interference.

10. In the result, the application fails and is hereby rejected. Rule is discharged.

(Akil Kureshi, J.)

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